



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

DENIED: June 17, 2010

CBCA 1980-RELO

In the Matter of CHARLES W. BELL

Charles W. Bell, Sherman, TX, Claimant.

Anne M. Schmitt-Shoemaker, Deputy Director, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for the United States Army Corps of Engineers.

SHERIDAN, Board Judge.

Claimant, Charles W. Bell, challenges the United States Army Corps of Engineers (USACE) determination that he owes the agency \$892.87 for the agency's overpayment of a relocation income tax (RIT) allowance voucher. He seeks review of the agency's decision to assess him the \$892.87 owed. The agency correctly applied the provisions of the Federal Travel Regulation (FTR). We see no valid reason why claimant should not be required to return to the agency the \$892.87 overpayment.

Background

On November 5, 2007, claimant was issued orders authorizing a permanent change of station (PCS) from Clayton, Oklahoma, to Denison, Texas. To cover the taxable income claimant gained during his PCS move, on December 4, 2008, the USACE Finance Center calculated and paid to the Internal Revenue Service (IRS) on claimant's behalf a withholding tax allowance (WTA) in the amount of \$1897.35. The WTA was based on a federal income tax rate of twenty-five percent. The agency required claimant to submit a RIT allowance voucher for the following year. In processing the RIT allowance voucher, the agency determined that it had overpaid claimant's WTA by \$892.87. On February 25, 2010, the agency notified claimant he owed the agency \$892.87 for the overpayment of the WTA.

Claimant protests the debt and argues that “the RIT allowance is not automatic,” “I did not want it or need[] it,” and “since I did not request [the RIT allowance] but was threaten[ed] with [with]holding of pay, to file a RIT [allowance voucher] that was improperly computed with WTA entitlement at 15% for Year 1 and Year 2 and since there was no Year 1 and Year 2 was only 65 days[,] I feel that I should not be responsible [for] nor be required to pay the \$892.87 they claim I owe.”

Discussion

Relocation benefits paid by the Government to employees whom it transfers from one permanent duty station to another are generally considered taxable income to the recipients. To cover the increased federal, state, and local tax liability resulting from receipt of the benefits, Congress has authorized agencies to pay an additional sum to transferred employees. 5 U.S.C. § 5724b(a) (2006). This additional sum is referred to as a RIT allowance. 41 CFR 302-17.1 (2007). The purpose of the RIT allowance is to offset the extra income taxes that employees are required to pay because they must declare certain relocation benefits as taxable income.

The procedures for calculating the RIT allowance are set forth in the FTR and are based on certain assumptions jointly developed by the General Services Administration and the IRS. 41 CFR 302-17.8(b)(1). The FTR establishes a two-step process for determining an employee’s RIT allowance. In the year in which the agency pays the employee relocation benefits (referred to as Year 1), it also pays to the employee a WTA, which is intended to be a rough approximation of the employee’s increased income tax liability that results from receipt of the relocation benefits and the WTA. *Id.* 302-17.5(e), (n), -17.7(a). In the following year (referred to as Year 2), the agency calculates a RIT allowance which is more appropriately crafted to the employee’s tax situation. This second step, determination of the RIT allowance itself, either reimburses the employee for any added tax liability that was not reimbursed by payment of the WTA or causes the employee to repay any excessive amount of WTA. *Id.* 302-17.5(f)(2), (m), -17.8; *see generally James V. Cammilloci*, CBCA 1709-RELO, 10-1 BCA ¶ 34,320 (2009); *Eddie D. West*, CBCA 790-RELO, 07-2 BCA ¶ 33,662; *Paula M. Stead*, GSBCA 16506-RELO, 05-1 BCA ¶ 32,874; *Philippe J. Minard*, GSBCA 15632-RELO, 01-2 BCA ¶ 31,631; *William A. Lewis*, GSBCA 14367-RELO, 98-1 BCA ¶ 29,532. Thus, where the calculation of the RIT allowance shows that the agency overpaid the WTA, the employee must repay the excess WTA to the agency. *Kenneth G. Kanik*, GSBCA 16034-RELO, 04-1 BCA ¶ 32,428 (2009).

Failure to file a timely RIT allowance voucher can result in forfeiture of the WTA payment. *Robert D. Baracker*, GSBCA 16781-RELO, 06-1 BCA ¶ 33,257; *Gail E. Williamson*, GSBCA 15954-RELO, 03-2 BCA ¶ 32,327. The entire WTA is considered to

be an excess payment if the RIT allowance voucher is not submitted in a timely manner to settle the RIT allowance account. 41 CFR 302-17.7(e)(2).

Claimant has not alleged that the agency misapplied the regulatory formulas for determining the RIT allowance or miscalculated the \$892.87 debt. The agency correctly applied the provisions of the FTR. Under the facts set forth before us, claimant received a WTA in the amount of \$1897.35 and was required to submit a RIT allowance voucher or face forfeiture of the entire WTA. Claimant opted to submit the RIT allowance voucher, which verified that the agency overpaid the WTA by \$892.87. We see no merit in claimant's argument or any valid reason why claimant should not be required to return to the agency the \$892.87 overpayment.

Decision

The claim is denied.

PATRICIA J. SHERIDAN
Board Judge